

NOTICE OF PROPOSED CHANGES IN REGULATIONS OF THE  
CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

## ITEM #1      Adoptions Regulations Revisions

The California Department of Social Services (CDSS or Department) hereby gives notice of the proposed regulatory action(s) described below. Any person interested may present statements or arguments orally or in writing relevant to the proposed regulations at a public hearing to be held on March 20, 2019, at the following address:

Office Building # 8  
744 P St. Room 103  
Sacramento, California

The public hearing will convene at 10:00 a.m. and will remain open only as long as attendees are presenting testimony. The purpose of the hearing is to receive public testimony, not to engage in debate or discussion. The Department will adjourn the hearing following the completion of testimony presentations. The above-referenced facility is accessible to persons with disabilities. If you are in need of a language interpreter at the hearing (including sign language), please notify the Department at least two weeks prior to the hearing.

Statements or arguments related to the proposals may also be submitted in writing, e-mail, or by facsimile to the address/number listed below. All comments must be received by 5:00 p.m. on March 20, 2019.

Following the public hearing, the Department may thereafter adopt the proposals substantially as described below or may modify the proposals if the modifications are sufficiently related to the original text. With the exception of nonsubstantive, technical, or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption to all persons who testify or submit written comments during the public comment period and all persons who request notification. Please address requests for regulations as modified to the agency representative identified below.

Copies of the express terms of the proposed regulations and the Initial Statement of Reasons are available from the office listed below. This notice, the Initial Statement of Reasons and the text of the proposed regulations are available on the internet at [CDSS Public Hearings for Proposed Regulations](http://www.cdss.ca.gov/inforesources/Letters-Regulations/Legislation-and-Regulations/CDSS-Regulation-Changes-In-Process-and-Completed-Regulations/Public-Hearing-Information) (<http://www.cdss.ca.gov/inforesources/Letters-Regulations/Legislation-and-Regulations/CDSS-Regulation-Changes-In-Process-and-Completed-Regulations/Public-Hearing-Information>). Additionally, all the information which CDSS considered as the basis for these proposed regulations (i.e., rulemaking file) is available for public reading at the address listed below. Following the public hearing, copies of the Final Statement of Reasons will be available from the office listed below:

Office of Regulations Development  
California Department of Social Services  
744 P Street, MS 8-4-192  
Sacramento, California 95814

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## CHAPTERS

California Code of Regulations, Title 22, Division 2, Chapter 3, Sections 35000 (Definitions), 35001 (Definitions – Forms), 35002 (Making Corrections or Alterations to the Relinquishment or Consent Form), 35003 (Procedures for Parents Who Cannot Read English or Cannot Read any Language), 35021 (Compliance with CCR Requirements for the Staffing of Adoption Agencies), 35037 (Fees), 35043 (Maternity Care), 35045 (Compliance with CCR Requirements for Content of Case Record), 35047 (Additional Requirements for Adoptions Case Records), 35049 (Releasing Information from an Adoption Case Record), 35050 (Providing Updated Medical Information to Adoptive Parents Post Finalization), 35051 (Providing a Medical Report Upon Request), 35053 (Disclosing Information to the Adoptee), 35055 (Disclosing Information to the Birth Parent), 35059 (Statutory Requirements for Furnishing Information and Access to Case Records), 35061 (Statutory Requirements for the Release of Personal Property), Disclosure of Information to a Sibling), 35063 (Disclosure of Information to a Sibling), 35065 (Services to be Provided Following Finalization of an Adoption), and 35078 (Adoption Facilitators).

## INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Current law and regulations allow a child who is legally freed to be adopted. California currently regulates adoptions through either an agency, independent, or intercountry adoption. Existing regulations provide procedures for the Department, county, and licensed adoption agencies to provide adoption services of children who are dependents of the juvenile court, relinquished, or placed for adoption.

The proposed regulations revise specific provisions and adopt new language in Title 22, Division 2, Chapter 3, Sections 35000 through 35078. These proposed regulations also incorporate by reference numerous adoption forms and other program-required forms. There have been many enacted legislation that have affected the adoption program regulations since the last major revision.

In 1996, the legislature enacted:

Assembly Bill (AB) 1832 (Chapter 1062, Statutes of 1996). It amended Family Code (FC) section 7576 to state that a man executing a declaration of paternity is conclusively presumed to be the child's father and has the same force and effect as the presumption under FC section 7540, and

AB 2165 (Chapter 510, Statutes of 1996). It adopted FC section 8811.5 to allow a licensed adoption agency to certify prospective adoptive parents by a pre-placement evaluation.

Senate Bill (SB) 2035 (Chapter 1135, Statutes of 1996). It adopted FC sections 8623, 8626, 8636 and 8638 regarding adoption facilitators.

In 2000, AB 2433 (Chapter 937, Statutes of 2000) was enacted. It amended FC section 8801.3 to allow an adoption placement agreement form be signed out of the country and in front of a notary for the purposes of identification of the birth parent only. It also amended FC section 9102 to change the allowed period of setting aside an

adoption dealing with fraud from three years to five years.

In 2001, Senate Bill (SB) 104 (Chapter 688, Statutes of 2001) was enacted. It amended FC sections 8801.3 and 8814.5 to change the right to revoke a consent to adoption from 90 days to 30 days.

In 2003, SB 947 (Chapter 469, Statutes of 2003) was enacted. It adopted FC section 8620 to implement the requirements of the Indian Child Welfare Act (ICWA) in regards to proper noticing requirements.

In 2004, SB 1357 (Chapter 858, Statutes of 2004) was enacted. It adopted FC section 7660.5 to allow a presumed father to waive his right to notice. It also amended FC section 8502 to allow an individual who resides outside of the United States who is licensed or certified to act as an Adoption Service Provider. It further amended FC section 8802 to require any post-adoption contact agreement to be filed with a petition for adoption.

In 2006, the legislature enacted:

SB 678 (Chapter 838, Statutes of 2006). It adopted FC section 8606.5 to implement requirements of the ICWA regarding adoption of Indian children. It also amended FC section 8620 to state all noticing under the ICWA must comply with FC section 180, and

SB 1758 (Chapter 754, Statutes of 2006). It adopted FC section 8632.5 to require all adoption facilitators that operate independently from a licensed public or private adoption agency or an attorney in California to register with the Department.

In 2008, the legislature enacted:

AB 1279 (Chapter 759, Statutes of 2008). It amended FC section 8810 to reduce the statewide income requirement from median to lower income, to allow petitioners to apply for a fee waiver, and

SB 1726 (Chapter 534, Statutes of 2008). It amended FC section 7660.5 to state that a presumed father may waive the right to notice of any adoption proceeding and allow a representative of the Department or a licensed public or private adoption agency to witness the signing of the waiver before or after the birth of the child. It also states that there is no need to terminate parental rights of an alleged father if he signs either a waiver notice, denial of paternity, relinquishment, or consent to the adoption of the child. This bill also adopted FC section 8639 regarding civil penalties charged to the adoption facilitator if they refuse to be included on the adoption facilitator registry. Furthermore, it amended FC section 8814.5 to allow an adoption service provider to witness the signing of the waiver of the right to revoke consent when the birth parent is represented by legal counsel.

In 2011, AB 687 (Chapter 462, Statutes of 2011) was enacted. It amended FC section 7663 to state that the court require an inquiry be made to the mother to identify any presumed or alleged father and that efforts must be made to give notice of the proposed adoption. It also amended FC section 9102 to add that an adoption can be set-aside, vacated, or nullified within 90 days of discovery of the fraud.

In 2012, the legislature enacted:

AB 1757 (Chapter 638, Statutes of 2012). It adopted FC section 8609.5 to state the location of where an adoption petition of a non-dependent child can be filed. This information was previously located in FC sections 8714 and 8810, and

SB 1013 (Chapter 35, Statutes of 2012). It amended FC sections 8506, 8509, and 8524 to include a county adoption agency to the definition of agency adoption, applicant, and independent adoption. It also adopted FC section 8513 to include the definition of county adoption agency. It further amended FC section 8515 to delete "licensed" from the definition of delegated county adoption agency. In addition, it amended FC section 8530 to delete county adoption agency from the definition of licensed adoption agency. Furthermore, it amended FC 8608 to include county adoption agencies as an agency required to transmit pertinent medical information to adoptees and prospective adoptive parents. Finally, it amended FC section 8620 to include county adoption agencies as one of the agencies responsible for ICWA inquiry.

In 2013, AB 1403 (Chapter 510, Statutes of 2013) was enacted. It amended FC section 7611 to change the definition of "presumed father" to "presumed parent." It also amended FC section 7661 to change the term to "the other parent" in regards to their relinquishment or consent.

In 2014, AB 1701 (Chapter 763, Statutes of 2014) was enacted. It amended FC section 8807 to state that if petitioners have a valid pre-placement evaluation or agency adoption home study, the investigation agency may elect not to reinvestigate if there is no new information. Any information already covered by the preplacement/home study is acceptable except for completing all background clearances required by law.

These proposed regulations are necessary to implement state and federal laws for the administration of the adoptions program and will help ensure the safety of children adopted through the California adoption process.

The Department conducted an evaluation as to whether there are any related regulations on this matter and has found that these are the only regulations dealing with the adoption programs. Therefore, the proposed regulations are neither inconsistent nor incompatible with existing state and federal regulations.

The following forms included in these regulations have been amended and are incorporated by reference:

AD 1A (4/15) - Parental Consent to Adoption (In or Out-of-California)

AD 1F (4/15) - Parental Consent to Adoption (Outside California in the Armed Forces)

AD 20 (4/15) - Refusal to Give Parental Consent to Adoption (Birth Mother/Presumed/Biological Father/Legal Parent)

AD 20B (5/15) - Refusal to Give Parental Consent to Adoption - Alleged Father

AD 42I (3/02) - Independent Adoption Program - Individual Case Report

AD 67 (5/15) - Information About the Birth Mother

AD 67A (7/15) - Information About the Birth Father

AD 90 (6/13) Supporting Information for Issuance of California Department of Social Services Acknowledgment and Confirmation of Receipt of Child Freeing Documents

AD 100 (7/10) - Authorization for Use and/or Disclosure of Information Independent Adoption Program

AD 165 (3/15) - Presumed Father's Consent to Adoption When Denying He is the Biological Father (In or Out-of-California)

AD 512 (1/14) - Psychosocial and Medical History of Child

AD 588 (4/15) - Denial of Paternity by Alleged Father (In or Out-of-California)

AD 590 (4/15) - Waiver of Right to Further Notice of Adoption Planning (Alleged Father In or Out-of-California)

AD 594 (3/15) - Alleged Father's Consent to Adoption (In or Out-of-California)

AD 842 (7/15) - Alleged Father's Consent to Adoption (Outside California in the Armed Forces)

AD 859 (8/15) - Parental Consent to Adoption of Indian Child (In or Out-of-California)

AD 860 (8/15) - Presumed Father's Consent to Adoption of Indian Child (In-or-Out of California)

AD 861 (8/15) - Alleged Father's Consent to Adoption of Indian Child (In or Out-of-California)

AD 880 (9/15) - Declaration of Mother

AD 887 (3/18) - Statement of Understanding – Independent Adoptions Program (Parent Who Gave Physical Custody (Custodial Parent) of the Child to the Prospective Adoptive Parent(s))

AD 887A (3/18) - Statement of Understanding – Independent Adoptions Program (Parent Who Did Not Give Physical Custody (Non-Custodial Parent) of the Child to the Prospective Adoptive Parent(s))

AD 887B (3/18) - Statement of Understanding – Independent Adoptions Program (Alleged Father)

AD 900 (3/18) - Statement of Understanding – Independent Adoptions Program (Parent Who Gave Physical Custody (Custodial Parent) of the Indian Child to the Petitioner(s))

AD 900A (3/18) Statement of Understanding – Independent Adoptions Program (Parent Who Did Not Give Physical Custody (Non-Custodial) of the Indian Child to the Petitioner(s))

AD 900B (3/18) - Statement of Understanding – Independent Adoptions Program  
(Alleged Father of Indian Child)

AD 904 (7/11) - Consent for Contact

AD 904A (12/10) - Waiver of Rights to Confidentiality for Siblings

AD 908 (9/15) - Adoptions Information Act Statement

AD 924 (5/15) - Independent Adoption Placement Agreement

AD 925 (8/15) - Independent Adoption Placement Agreement (Indian Child)

AD 926 (1/18) - Statement of Understanding – Independent Adoption Program (Parent  
Who Places the Child with the Prospective Adoptive Parent(s))

AD 927 (3/18) - Statement of Understanding – Independent Adoption Program (Parent  
of Indian Child Who Places the Child with the Prospective Adoptive Petitioner(s))

AD 928 (7/02) - Revocation of Consent – Independent Adoption Program

AD 929 (11/16) - Waiver of Right to Revoke Consent – Independent Adoption Program

AD 930 (7/11) - Independent Adoption Placement Agreement Transmittal

AD 4333 (8/14) - Acknowledgement or Confirmation of Receipt of Child Freeing  
Documents

AD 4336 (4/15) - Presumed Father's Consent to Adoption When Denying He is the  
Biological Father (Outside California in the Armed Forces)

FC 3 (11/04) - Determination of Federal AFDC-FC Eligibility

ICPC 100A (8/2001) - Interstate Compact On The Placement Of Children Request

ICPC 100B (8/2001) - Interstate Compact On The Placement of Children Report on  
Child's Placement Status

I-600 (02/15) - Petition to Classify Orphan as an Immediate Relative

Adopt-200 (1/16) - Adoption Request

Adopt-210 (1/16) - Adoption Agreement

Adopt-215 (1/16) - Adoption Order

Adopt-220 (7/10) - Adoption of Indian Child

Adopt-230 (1/07) - Adoption Expenses

Adopt-310 (1/03) - Contact after Adoption Agreement

JV-505 (1/08) - Statement Regarding Parentage (Juvenile)

VS 44 (1/16) - Court Report of Adoption

The following forms included in these regulations have been adopted and are  
incorporated by reference:

AD 8 (10/01) - Marriage/Divorce Verification

AD 9 (11/07) - Independent Adoption Questionnaire

AD 10 (9/03) - Request for Reference  
AD 65 (2/02) - Parent's Authorization for Medical and Surgical Care  
AD 70 (11/15) - Adoption Facilitator Registry Application  
AD 71 (11/15) - Adoption Facilitator Registry – Trainee Application  
AD 72 (11/15) - Adoption Facilitator Complaint Form  
AD 898 (1/11) - Consent of CDSS or Delegated County Adoption Agency – Independent Adoptions Program  
AD 904B (1/11) - Waiver of Rights to Confidentiality for Siblings – Under the Age of 18  
AD 908A (1/11) - Adoptions Information Act Statement (Adult Adoptee (age 21 or older))  
ADM 36 (6/99) - Medical Report Regarding Child to be Adopted  
BCIA 8016 (01/2011) - Request for Live Scan Service  
BCIA 8302 (8/2016) - No Longer Interested (NLI) Notification (For Non-Department of Justice Applicants)  
BCII 9004 (3/05) - Request for Exemption from Mandatory Electronic Fingerprint Submission Requirement  
FD 258 (9/9/13) - fingerprint card  
Adopt-225 (1/05) - Parent of Indian Child Agrees to End Parental Rights  
ICWA-010(A) (1/08) - Indian Child Inquiry Attachment  
ICWA-020 (1/08) - Parental Notification of Indian Status  
ICWA-030 (1/08) - Notice of Child Custody Proceeding for Indian Child  
ICWA-030(A) (1/08) - Attachment to Notice of Child Custody Proceedings for Indian Child

The following forms included in these regulations have been repealed:

AD 1C (1/95) - Consent to Adoption by Parent(s) Outside California  
AD 42 ICA (7/95) - Intercounty Adoption Program - Individual Case Report  
AD 166 (1/95) - Consent to Adoption by Father Outside California  
AD 585 ENG/SP (8/95) - Relinquishment (Presumed Father Denies He is the Birth Father)  
AD 831 (7/87) - Private Adoption Agency Cost Justification for Adoptive Placement  
AD 865 (1/92) - Relinquishment of Indian Child (Birth Mother and/or Presumed Father) Out of County  
AD 873 (7/95) - Relinquishment of Indian Child (Presumed Father Denies He is Birth Father) Out of County  
AD 920 ENG/SP (2/93) - Relinquishment - In or Out of County (Alleged Natural Father in California) - Parent Identifying Adopting Parent(s)

AD 921 ENG/SP (1/93) - Relinquishment (Birth Mother and/or Presumed Father) - Parent Identifying Adopting Parent(s)

AD 922 ENG/SP (3/97) - Relinquishment Addendum for Parent Identifying Adopting Parent(s)

AD 4311 (1/98) - Information on American Indian Child (Adoption Program)

BID 7-A (5/90) - fingerprint card

DHS 6155 (10/90) - Health Insurance Questionnaire

#### COST ESTIMATE

1. Costs or Savings to State Agencies: These regulations reflect statutory changes made as far back as 1999. Appropriate funding was provided at the time of enactment. Therefore, no current funding adjustments are needed.
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500 - 17630: None.
3. Nondiscretionary Costs or Savings to Local Agencies: These regulations reflect statutory changes made as far back as 1999. Appropriate funding was provided at the time of enactment. Therefore, no current funding adjustments are needed.
4. Federal Funding to State Agencies: These regulations reflect statutory changes made as far back as 1999. Appropriate funding was provided at the time of enactment. Therefore, no current funding adjustments are needed.

#### LOCAL MANDATE STATEMENT

These regulations do not impose a new mandate on local agencies or on local school districts. There are no reimbursable state-mandated costs under Section 17500 et seq. of the Government Code because these regulations make clear existing practice and only make technical and clarifying changes.

#### STATEMENT OF SIGNIFICANT ADVERSE ECONOMIC IMPACT ON BUSINESS

The Department has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

#### STATEMENT OF POTENTIAL COST IMPACT ON PRIVATE PERSONS OR BUSINESSES

The Department is not aware of any cost impacts that a representative private person or business would incur in reasonable compliance with the proposed action.

#### SMALL BUSINESS IMPACT STATEMENT

The Department has determined there is no impact on small businesses as a result of filing these regulations because these regulations are only applicable to state and county agencies.

## STATEMENT OF RESULTS OF ECONOMIC IMPACT ASSESSMENT

The adoption of the proposed amendments will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California. The benefits of the regulatory action are primarily greater safeguards for the health and welfare of California residents by improving the well-being and outcomes for adopted children in California.

## STATEMENT OF EFFECT ON HOUSING COSTS

The proposed regulatory action will have no effect on housing costs.

## STATEMENT OF ALTERNATIVES CONSIDERED

In developing the regulatory action, CDSS did not consider any other alternatives as there were no other alternatives proposed.

The Department must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective as and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

## AUTHORITY AND REFERENCE CITATIONS

The Department adopts these regulations under the authority granted in Sections 10553, 10553.1, 10554, 16118, and 16120, Welfare and Institutions Code; Section 1530, Health and Safety Code; Sections 8608, 8619, 8621, 8632.5, and 8901, Family Code; and Sections 996.310-996.360, California Code of Civil Procedure. Subject regulations implement and make specific Sections 224.1, 224.3, 361.5, 366.21, 366.22, 366.24, 366.25, 366.26, 366.3, and 366.31, Welfare and Institutions Code; Sections 177, 180, 7540, 7541, 7550, 7551, 7551.5, 7552, 7552.5, 7553, 7554, 7555, 7556, 7557, 7558, 7571, 7573, 7576, 7611, 7611.5, 7612, 7660.5, 7662, 7663, 7667, 7900 et seq., 8502, 8503, 8506, 8509, 8513, 8514, 8515, 8530, 8533, 8539, 8542, 8608, 8609.5, 8612, 8616.5, 8620, 8623, 8625, 8626, 8627, 8628, 8629, 8631, 8632.5, 8636, 8638, 8700, 8700.5, 8702, 8706, 8712, 8714, 8714.5, 8714.7, 8730, 8801, 8801.3, 8801.5, 8802, 8807, 8808, 8810, 8811, 8811.5, 8814, 8814.5, 8816, 8817, 8818, 8902, 8908, 8909, 8911, 8912, 9000, 9200, 9202, 9203, 9204, 9205, and 9206, Family Code; Sections 1283, 1505.2, 1506, 1522, and 123800 et seq., Health and Safety Code; and Sections 1183 and 1183.5, Civil Code.

## CDSS REPRESENTATIVE REGARDING THE RULEMAKING PROCESS OF THE PROPOSED REGULATION

Contact Person:	Everardo Vaca	(916) 657-2586
Backup:	Sylvester Okeke	(916) 657-2586